



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2628-00

28 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 23 February 1964 for four years at age 18. The record reflects that you were advanced to FA (E-2) and served without incident until 16 October 1965 when you received nonjudicial punishment (NJP) for two one-day periods of unauthorized absence (UA). Thereafter, you continued to serve without further incident until 30 April 1966 when you were reported UA. You were apprehended by civil authorities on 3 May 1966 and were convicted of petty larceny, breaking and entering of an automobile, and vagrancy. You were sentenced to 60 days in jail and a fine of \$250. An additional 60 days of jail time was adjudged in lieu of payment of the \$250 fine.

On 23 August 1966 you were notified that you were being considered for an undesirable discharge due to your repeated military and civil offenses. You were advised of your procedural rights, declined to consult with legal counsel, and waived the right to present your case to an administrative discharge board.

Thereafter, the commanding officer (CO) recommended that you be discharged by reason of unfitness. He noted that you were a constant source of minor disciplinary breaches and, in spite of repeated counseling and reprimands, showed no change in your belligerent attitude toward the Navy. The CO stated you were pending disciplinary action for the foregoing three day period of UA and breaking restriction, and were being retained pending your release by civil authorities.

On 24 September 1955 the Chief of Naval Personnel directed an undesirable discharge by reason of misconduct due civil conviction. You were released from civil confinement on 4 October 1966 and discharged under other than honorable conditions on 5 October 1966.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 34 years since you were discharged. The Board noted your contentions to the effect that you came from an abusive family and enlisted to get out of a bad situation, only to find yourself in a worse situation. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP and a civil conviction. The Board was not persuaded that coming from an abusive family was a contributing factor in the offenses of which you were convicted by civil authorities. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director